

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

WP(C).No. 6240 of 2015 (D)

PETITIONER :

**ELTEK SGS, PVT. LTD.,
PLOT NO.362, SECTOR- 37, GURGAON, HARYANA,
REPRESENTED BY ITS AUTHORIZED REPRESENTATIVE
SUJI KUMAR P.S.**

**BY ADVS.SRI.RAJESH NAMBIAR
SRI.N.R.SAJ**

RESPONDENT :

**COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECKPOST,
WALAYAR. PIN-672 008**

BY GOVERNMENT PLEADER SRI. SUDHEESH KUMAR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.6240 of 2015

.....
Dated this the 4th day of March, 2015

JUDGMENT

The petitioner, is aggrieved by Exts.P4 and P5 notices issued to him, detaining a consignment of electrical goods, that was being transported at the instance of the petitioner, who is a dealer in Haryana, at the Commercial Tax Checkpost, Walayar. In the writ petition, the petitioner is aggrieved by the insistence of the respondents that the petitioner must pay the security deposit demanded in the detention notice as a condition for release of the goods and vehicle.

2. Heard Sri.Rajesh Nambiar, the learned counsel for the petitioner and Sri.Sudheesh Kumar, the learned Government Pleader for the respondent.

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I dispose the writ petition with the following directions:

(i) On a perusal of Exts.P4 and P5 notices, it is seen that the goods under transportation were not accompanied by any of the documents specified under the Kerala Value Added Tax Act and Rules, but only by a photo copy of an

invoice, and further, without any document to show that it was being brought for the purposes of a works contract, as stated by the consignor. Under these circumstance, the detention by the respondent cannot be said to be unjustified. I also note that the petitioner is not a registered dealer in the State. Under these circumstances, the consignment can be permitted clearance only subject to payment of the security deposit amount demanded.

ii. Taking note of the plea of financial hardship urged by the petitioner, I direct the respondent to release the goods covered by Exts.P4 and P5 notices to the petitioner on the petitioner paying 40% of the security deposit amount demanded in Exts.P4 and P5, and furnishing a bank guarantee for the balance amounts demanded therein, to the respondents.

(iii) The respondent shall thereafter transmit the files to the adjudicating authority who shall adjudicate the matter and pass orders,

after hearing the petitioner, within two months from the date of receipt of a copy of this judgment.

(iv) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the respondents.

**A.K.JAYASANKARAN NAMBIAR
JUDGE**

mns/

